

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

Chapter 11

Bracha Cab Corp., et al.,

Case No. 17-46613-nhl
Jointly Administered

Debtors.
-----X

TO: THE HONORABLE NANCY HERSHEY LORD
UNITED STATES BANKRUPTCY JUDGE

The application of the above-named, as debtor and debtor-in-possession,
respectfully represents:

1. Applicant heretofore filed a petition for relief under Chapter 11 of the Bankruptcy Code.
2. Applicant has continued in possession of its property and management of its business as debtor-in-possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code.
3. Lori Sullivan, Esq., as *guardian ad litem* for Esma Elberg who is the president of the Debtors.
4. Applicant, as debtor-in-possession, wishes to employ and retain the firm of Schoeman Updike & Kaufman LLP ("Schoeman") as its attorneys in this case.
5. Applicant has selected Schoeman for the reason that our current attorney, Bruce Weiner, Esq., will act as of counsel to Schoeman, and he has not only represented the Debtors since the inception of these cases, he has considerable experience in matters of this character. Consequently, Applicant believes that Schoeman are well qualified to represent it as debtor-in-possession in this case.
6. The professional services that said Schoeman is to render are:

- a) To give debtor legal advice with respect to its powers and duties as debtor-in-possession in the continued operation of its business and management of its property;
- b) To prepare on behalf of applicant as debtor-in-possession necessary petitions, pleadings, orders, reports and other legal papers;
- c) To perform all other legal services for applicant as debtor-in-possession which may be necessary and appropriate in the conduct of this case.

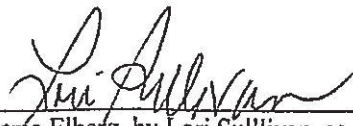
7. To the best of applicant's knowledge, Schoeman has no connection with applicant, the creditors, or any other party in interest, or their respective attorneys except as stated in the affidavit of Schoeman, annexed hereto and made a part hereof.

8. Schoeman represents no interest adverse to applicant as debtor-in-possession or the estate in the matters upon which they are to be engaged, and their employment would be to the best interest of this estate.

9. Applicant desires to employ Schoeman under a general retainer because of the extensive legal services required. A retainer fee of \$40,000.00 has been paid by Faivish Pewzner, subject to approval of the Court.

10. The undersigned reviewed the list of creditors and their affiliates to see if Schoeman, ever represented any person or entity adverse to the Debtor. No conflict was found.

WHEREFORE, applicant prays that it be authorized to employ and retain Schoeman under a general retainer, to represent it as debtor-in-possession in this case under Chapter 11 of the said code, and that it have such other and further relief as is just.


By: Esma Elberg, by Lori Sullivan, as guardian *ad litem*, pursuant to attached orders of Surrogate's Court, Queens County, dated January 24, 2023 and September 25, 2023

Sworn to before me this
30th day of September 2023.


Notary Public

David Bamdad
Notary Public, State of New York
No. 02BA6247175
Qualified in Nassau County
Commission Expires 8/22/2023 2027

SURROGATE'S COURT, QUEENS COUNTY

Petition for Compulsory Accounting and
Related Relief in the Estate of

FILE No 2022-211/I

JACOB ELBERG

aka/a Yaakov Elberg, DECEASED

**Order Appointing
Guardian Ad Litem**

On reading and filing due proof of the citation heretofore issued in the above-entitled
matter on **Esma Elberg, AN INCAPACITATED PERSON,**

It is ordered that Lori Sullivan Esq.
1 Battery Park Plaza New York, NY 10004
upon completing and signing the consent set forth below, is hereby appointed as
Guardian Ad Litem of said **Esma Elberg, AN INCAPACITATED PERSON,**
for the sole purpose of appearing for and taking care of HER
interest in the said matter.

Dated: Jan 18, 2023


HON. PETER J. KELLY
Surrogate

I, Lori Sullivan residing at
27 Harold Rd. Plainville, NY 11803 having been appointed by the
Surrogate of said County of Queens, as Guardian Ad Litem of the above named party (parties), who have
some interest in the estate of said deceased, for the sole purpose of appearing for and taking care of
Esma Elberg's interests in the above-entitled matter, do hereby consent to act as such.

I am an attorney duly admitted to practice law in the State of New York.

I have no interest in the proceedings adverse to, or in conflict with, that of said
Esma Elberg's and am not connected in business with any party, or with the attorney or
counsel of any party hereto.

Dated: Jan 25, 2023


Guardian Ad Litem

PRESENT: Hon. Peter J. Kelly
Surrogate

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In the Matter of the Accounting Petition of Sholom Elberg for :
the Estate of

JACOB ELBERG,
a/k/a YAAKOV ELBERG,

Deceased,

File No. 2022-211/1

ORDER

For Guardian ad Litem to
execute settlement paperwork
in the Bankruptcy Court for the
Eastern District of New York

----- x
Further to this Court's Order, dated January 24, 2023, which appointed Lori Sullivan, Esq.,
as the Guardian Ad Litem for Esma Elberg:

It is Ordered that Lori Sullivan, Esq., is authorized in her capacity as the Guardian Ad Litem for Esma Elberg to execute a retention agreement for the law firm of Schoeman Updike & Kaufman LLP, to serve as counsel for the debtor-corporations in bankruptcy proceedings arising under the caption In Re Bracha et al, E.B.N.Y. Case No.: 1-17-46613-nhl, as Esma Elberg is the sole authorized representatives of these debtor-corporations; and,

It is further Ordered that Lori Sullivan, Esq., is authorized in her capacity as the Guardian Ad Litem for Esma Elberg to execute settlement agreements, retain Schoeman Updike & Kaufman LLP as counsel in the bankruptcy action and execute such other documents as are required to be signed by Esma Elberg under the settlement agreements and pursuant to the direction of the courts, for and on behalf Esma Elberg, individually and as the sole authorized representative of the debtor-corporations in these same bankruptcy proceedings and on Esma Elberg's behalf, individually, in the proceedings before this Court.

Dated: September 26, 2023


HON. PETER J. KELLY
Surrogate
H

Attachments to Debtors' Application:

**Orders of Surrogate's Court of the
State of New York**

Retainer Agreement

SURROGATE'S COURT, QUEENS COUNTY
Petition for Compulsory Accounting and
Related Relief in the Estate of

FILE No 2022-211/I

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Dated: Jan 25, 2023


Guardian Ad Litem

PRESENT: Hon. Peter J. Kelly
Surrogate

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Dated: September 26, 2023


HON. PETER J. KELLY
Surrogate
X



Beth L. Kaufman
646-723-1039
bkaufman@schoeman.com

September 29, 2023

Via E-Mail to Lori Sullivan, guardian *ad litem* and Faivish Pewzner

Mrs. Esma Elberg
1281 Carroll Street
Brooklyn, N.Y. 11213

Lori Sullivan, Esq., guardian *ad litem* for Esma Elberg
Meltzer, Lippe, Goldstein & Breitstone, LLP
190 Willis Ave.
Mineola, NY 11501

Mr. Faivish Pewzner
23 Waverly Place
Lawrence, NY 11559

Dear Mrs. Elberg, Ms. Sullivan and Mr. Pewzner:

This will confirm that, on behalf of Esma Elberg, Ms. Sullivan, as guardian *ad litem* for Mrs. Elberg, per the orders of Surrogate's Court, Queens County dated January 24, 2023 and September 25, 2023, has retained our firm to represent Bracha Cab Corp., Dovber Cab Corp., Dabri Trans Corp., Merab Cab Corp., Fit Taxi Corp., Jarub Trans Corp., Somyash Taxi Corp., NY Canteen Taxi Corp., Lechaim Cab Corp., Tamar Cab Corp., NY Genesis Taxi Corp., NY Tint Taxi Corp., NY Stance Taxi Corp., NY Energy Taxi Corp., Jackhel Cab Corp. (the "Debtors"), which are owned by Mrs. Elberg, in proceedings currently pending in the Surrogate's Court, Queens County (to the extent they involve the Debtors) and in the United States Bankruptcy Court (the "Bankruptcy Court"). Mr. Pewzner has agreed, and acknowledges here, his commitment to pay the expenses of the remaining proceedings in Bankruptcy Court, including any fees and reimbursement of disbursements and expenses that may be awarded to our firm by the Bankruptcy Court, as a result of this representation, as well as any fees for the representation in Surrogate's Court that may involve the Debtors going forward. In light of that commitment, Mr. Pewzner will pay a retainer fee of \$40,000 to our firm, subject to approval of the Bankruptcy Court, to be applied to any fee award our firm receives. Any balance remaining of the retainer fee after payment or payments of any fee award, shall be refunded to Mr. Pewzner.

Esma Elberg, Lori Sullivan and Faivish Pewzner
September 29, 2023
Page 2

After inquiry, we are presently unaware of any conflict of interest for us in undertaking this representation. Mr. Pewzner acknowledges that I, on behalf of our firm, have resigned from the representation of his wife, Tamar Pewzner, and him in various court actions and for general advice in connection with the negotiation of a global settlement agreement or agreements, and that our firm will now only represent the Debtors, as defined herein.

We agree to undertake this representation, and we will send monthly statements to Mrs. Elberg and Ms. Sullivan, showing the services rendered, at our regular billing rates, and expenses we advance on behalf of the Debtors. Bruce Weiner, of counsel to our firm as of September 29, 2023, shall have primary responsibility for this matter, but I will be available to you as well, and you will be dealing directly with us. In an effort to keep costs down, we may delegate appropriate responsibilities to other attorneys and legal assistants. The current charge for my time is \$695.00 per hour. Bruce's hourly rate is \$700 per hour. The hourly rate for junior partners ranges from \$550 to \$650 and for counsel and associates from \$315 to \$495. The hourly rate for paralegals is \$195.

Please note that if a dispute arises relating to our fees, you may have the right to arbitration of the dispute pursuant to Rule 137 of the Rules of the Chief Administrator of the Courts, a copy of which will be provided upon your request.

You and we both have the right to terminate the representation at any time. If you exercise that right or if we terminate our services, we will calculate our fee as set forth herein on the basis of time, effort and expenses incurred through the date of termination.

If you have questions about any aspect of this arrangement, we urge you to raise them with us promptly and without embarrassment. We will be happy to discuss the overall arrangement or any individual invoice.


If this is acceptable, please sign and date the enclosed copy of this letter and return it to us, along with the retainer fee. ACH and wire instructions are enclosed.

We look forward to working with Mrs. Elberg and Ms. Sullivan, and thank Mr. Pewzner for his generous offer to cover the fees and expenses in the remaining Bankruptcy Court proceedings.

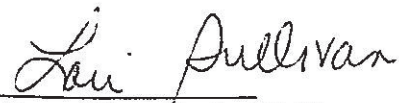
Esma Elberg, Lori Sullivan and Faivish Pewzner
September 29, 2023
Page 3

Sincerely,

SCHOEMAN UPDIKE & KAUFMAN LLP


Beth L. Kaufman

ACCEPTED AND AGREED TO:


By: Esma Elberg, by Lori Sullivan,
guardian *ad litem*, pursuant
to orders of Surrogate's Court,
Queens County, dated
January 24, 2023 and
September 25, 2023

Dated: Sept 29, 2023
OBLIGATION ACKNOWLEDGED
BY:

Faivish Pewzner

Dated: _____ 2023

Esma Elberg, Lori Sullivan and Faivish Pewzner
September 29, 2023
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Dated: _____
OBLIGATION ACKNOWLEDGED
BY:


Faivish Pewzner

Dated: 9/29/23 2023

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Guardian Ad Litem

PRESENT: Hon. Peter J. Kelly
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corporations in these same bankruptcy proceedings and on Esma Elberg's behalf, individually, in
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